IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.190 OF 2006

IN

SUMMARY SUIT NO.3733 OF 2002

Jyotindra Vishanji Shah. ...Plaintiff

vs.

Shyam Trading Company. ...Defendant.

Mr.B.B.Saraf with Ms.Nita Solonki i/b. Kiran Jain & Co., for Plaintiff.

Mr.U.B.Nighot i/b/ S.R.Agarkar, for Defendant.

CORAM: D.K.DESHMUKH,J.

DATED: 14th August, 2006.

P.C.:-

By consent of parties, the summons for judgment is disposed of in the following terms:-

1. The defendant shall deposit an amount of Rs.2,50,000/- (Rupees Two lakhs Fifty thousand only)

in this Court with due notice to the plaintiff within a period of Eight weeks from today.

2. On the deposit being made, this summons for judgment shall stand disposed of and leave to defend shall stand granted to the defendant. In that event the defendant shall file written statement within a period of Eight weeks from the date of deposit.

3. In case the amount is deposited, the Prothonotary and Senior Master of this Court shall permit the plaintiff to withdraw the amount on furnishing bank guarantee of a nationalised bank and on furnishing an undertaking undertaking to this Court to re-deposit the amount if so directed by this Court on such terms and conditions as may be directed by this Court with further undertaking that in the event of re-deposit of the amount, the rate of interest shall not be less than 12% per annum.

4. If the plaintiff does not withdraw the amount within a period of Eight weeks from the date of deposit, the amount shall be invested in fixed

deposit in a nationalised bank during the pendency of the suit.

5. In case the amount is not so deposited within the aforesaid period, this summons for judgment shall stand granted and the suit shall stand decreed in terms of prayer clause of the suit. In that event, refund of court fees as per rules.

6. The learned Counsel appearing for plaintiff states that on the learned Counsel appearing for defendant communicating him the names of the partners of the defendant's firm, he will take steps to join all the partners as defendants to the suit. The statement is accepted.